

APPEAL NO. 031792
FILED AUGUST 8, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 29, 2003. The hearing officer determined that the appellant's (claimant herein) compensable right knee injury of _____, does not extend to or include an injury to the left knee. The claimant essentially files a factual sufficiency request for review. The respondent (self-insured) files a response, urging affirmance.

DECISION

Affirmed.

The claimant was hired as a traveling cook for the employer on _____. On _____, she reported an injury as a result of pushing a breakfast cart. She sought initial medical treatment from (clinic) on October 14, 2002. On December 3, 2002, the claimant had arthroscopic surgery to her right knee. The claimant testified that she complained of bilateral knee pain from the very beginning of her claim. The self-insured employer points out that the claimant did not report a specific type of injury involving her left knee and that there are medical records from the clinic dated October 21, 2002, that states, "Patient cannot recall any particular injury incident."

The claimant had the burden to prove that her compensable injury extends to include her left knee. There is conflicting evidence in this case. The 1989 Act makes the hearing officer the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). The finder of fact may believe that the claimant has an injury, but disbelieve that the injury occurred at work as claimed. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). An appellate body is not a fact finder and does not normally pass upon the credibility of witnesses or substitute its judgment for that of the trier of fact, even if the evidence would support a different result. Texas Worker's Compensation Commission Appeal No. 950084, decided February 28, 1995. Our review of the record reveals that the hearing officer's extent-of-injury determination is supported by sufficient evidence and that it is not so contrary to the overwhelming weight of the evidence as to be clearly wrong or unjust. Thus, no sound basis exists for us to disturb that determination on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**DW
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Thomas A. Knapp
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Edward Vilano
Appeals Panel